

**WAIVER OR DEFERRAL
OF FEES and/or COSTS IN
DOMESTIC VIOLENCE CASES**

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**To Waive or Defer
Court Fees and/or Costs**



Self Service Center

WAIVERS OR DEFERRAL OF FEES and/or COSTS IN DOMESTIC VIOLENCE CASES

How to assemble these documents

This packet contains general information and/or court forms and instructions about how to waive or defer fees and/or costs. Be sure the documents are in the following order.

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SELF SERVICE CENTER
FEE WAIVER AND/OR DEFERRAL
CHECKLIST

Use the forms and instructions in this packet ONLY if the following factors apply to your situation:

- ✓ You believe you can have your court fees and/or costs deferred or postponed or waived, **AND**
- ✓ You are filing for an Order of Protection or an Injunction Against Harassment, **AND**
- ✓ A judge or special commissioner has not previously signed an Order deferring or postponing or waiving the fees and/or costs that you want the court to now defer or postpone or waive.

READ ME: It is very important for you to know that when you sign a court document, you may be helping or hurting your court case. Before you sign any court document, or get involved with a court case, it is important that you see a lawyer to make sure you are doing the right thing. The Self-Service Center has a list of lawyers who can give you legal advice and can help you on a task-by-task basis for a fee. If you want to know more about our list of lawyers and our list of mediators, ask the Self-Service Center staff.

REQUEST FOR DEFERRAL/WAIVER
A.R.S. § 12-302

On request, any customer will be given an application for Deferral or Waiver of Court fees. If you qualify, only a Deferral (delayed payment or partial payment plan) will be granted *at the time of filing* of documents, but you may request a Waiver of fees at or after the final hearing of your case. The payment required at the time of filing will be based on the financial information provided on the attached forms. *If you qualify* for a Deferral, you will be assigned to one of three payment plans:

- (1) Make a part payment of 25% and pay the balance in three monthly payments.
- (2) Make a part payment of \$10.00 and then \$10.00 per month until paid in full.
- (3) Make no payment *until the final hearing* of case, at which time you may ask the Court for a Waiver, that is to pay no fees at all.

You can only request a Waiver at the final hearing or after you receive notice of fees due from the Clerk of Court. You have 20 days after the final judgment is entered to submit an application for waiver of the full amount – or to request an extension of the Deferral (an extension of time to pay). If no such application or request is filed within 20 days, then full payment is due. The form you must file is called the “**Supplemental Application**” for Waiver or Further Deferral of Court Fees and Costs.” It is available at the Fee Deferral Application window at the Clerk of Court’s filing counter, and at the Self Service Center.

Please Note:

If you claim government assistance, you must show current proof.

The Clerk’s Office presently accepts cash, checks, and money orders.

Deferral/Waiver Applications must be filled out completely or your application will be rejected.

Self-Service Center

INSTRUCTIONS: HOW TO APPLY FOR A DEFERRAL OR WAIVER OF COURT FEES AND COSTS

1. **WHAT COURT FEES OR COSTS ARE CHARGED?** Arizona law requires the court to charge fees and costs when a court user files certain court papers and/or needs other court services. There are various fees and costs charged for different kinds of cases, depending on what you want or need to do. You can find out the exact fees and costs that are charged for any particular matter by calling the Clerk of the Court at 602-506-6185.

Here are the most common events for which fees and costs are charged:

- ✓ To file a Complaint, Petition, Answer, or Response to a new court case;
- ✓ To file a post-decree Petition or Response in a Family Court case, for example, to enforce or modify a court order for child support, custody, or visitation;
- ✓ For the issuance by the Clerk of Court for a Summons or Subpoena;
- ✓ For service of process or costs of service by publication;
- ✓ To get a copy or a certified copy of any court order or judgment or paperwork;
- ✓ To file an appeal of a case to a higher court;
- ✓ To photocopy court papers for the record on appeal;
- ✓ To pay for court reporter or transcriber fees of court trials or hearings.

2. **WHO PAYS THE COURT FEES AND COSTS?** Usually the person who wants to file a certain court document, or who wants a certain court service, must pay the fees and costs at the time the filing or the service is done. At the end of the court case the judge might order that one or the other party pay all the costs and fees, which means the party who is ordered to do so must pay back the other party who already paid court fees or costs. If you are handling your own court case, be prepared to pay various fees and costs along the way.

3. **WHAT ABOUT A PARTY WHO CANNOT PAY COURT FEES OR COSTS?** Sometimes, for very serious reasons, a party cannot pay court fees and costs at the time of filing court papers or asking for another court service. If this happens, the party can apply for a **DEFERRAL** or **WAIVER** of court costs and fees.

- ✓ A **WAIVER** means that the party does **not** have financial resources to pay now, and will not be able to do so in the future. As a general rule, waivers are only given at the end of a case. The only time you can get a waiver at the beginning of a case is if you are filing for an Order of Protection, or an Injunction Against Harassment.
- ✓ A **DEFERRAL** means that even though the party cannot pay now, he or she may be able to pay in the future. Because you may be able to pay in the future, in most cases, you will get a DEFERRAL rather than a WAIVER, because everyone needs to bear his or her fair share of the court fees and costs. If at the end of your case, you meet the financial criteria and still cannot pay your court fees, you can ask the Court to waive or further defer your court fees and costs.

4. **COURT PAPERWORK FOR A DEFERRAL OR WAIVER OF COURT FEES AND COSTS:**

A. APPLICATION FOR DEFERRAL OF COURT FEES AND/OR COSTS and CONSENT TO JUDGMENT: You must file the Application with the Clerk of the Court. You should know that the *"Application for Deferral of Court Fees and/or Costs"* includes a *"Consent to Entry of Judgment."* By signing this document, you agree that a judgment may be entered against you for all fees and/or costs that are deferred, but that remain unpaid after thirty (30) calendar days following the entry of final judgment. At the conclusion of the case, you will receive a

notice indicating how much is owed and what steps you must take to avoid a judgment against you if you are still unable to pay. In filling out the Application, check the boxes that apply to your situation as follows:

- ✓ Paragraph 1. Check the boxes that tell the court what fees and/or costs you need deferred.
- ✓ Paragraph 2. Read paragraph A to see if you receive any governmental assistance. If you do and have proof, check the box that applies to your situation and then fill out the Financial Questionnaire. If you do not receive governmental assistance, go to paragraph 3.
- ✓ Paragraph 3. Check box B or box C and then fill out the Financial Questionnaire. If your financial condition gets better, you must tell the court, so that even if you cannot pay now, you must pay later if you have the money to do so.

B. ORDER FOR DEFERRAL OR WAIVER: Do not fill out this form except for caption, which includes the name of the petitioner/plaintiff, name of the respondent/defendant. The Special Commissioner will fill out this form after he or she has reviewed your application. This form tells you whether your costs have been waived, deferred or denied.

C. AFFIDAVIT IN SUPPORT OF APPLICATION FOR DEFERRAL OR WAIVER OF SERVICE COSTS: A deferral or waiver of fees to pay the sheriff for personal service, or the newspaper for publication of service, must be applied for separately. To do so, fill out the form described in Section 4(A) above, and the additional court form called Affidavit in Support of Application for Deferral or Waiver of Service Costs. Here are some important points:

- ✓ **For service by the sheriff:** Did you try to ask the other party to voluntarily accept service? If not, you must have a very good reason.
- ✓ **For publication of service:** Why are you publishing instead of using another method of service? This is important, not only to get fees waived or deferred, but because service by publication is only used as a last resort. **BE SURE TO READ THE SELF-SERVICE CENTER INSTRUCTIONS ON SERVICE BEFORE YOU SERVE BY PUBLICATION.** This could save you time, effort, and difficulty!

5. HOW DO I APPLY FOR A DEFERRAL?

- A. Complete the court paperwork for the ***“Application for Deferral of Court Fees and/or Costs”*** and ***“Consent to Entry of Judgment”*** along with the court papers you want to file for whatever court proceeding you are involved with. **DO NOT SIGN** the Application until you get to the Filing Counter if you are hand-delivering the Application to the Clerk of the Court. You will be able to sign the Application at the court, when you go to the Filing Counter and avoid the cost of paying a Notary Public. If you are mailing your Application to the Clerk of the Court, you will need to sign the Application in front of a Notary Public before you mail your application.
- B. Take the Application and all the other court papers you need to file to the filing counter of the Clerk of Court at the court location where you file the papers. Information on how to know whether to file in the Downtown court location, the Southeast court location in Mesa or the Northwest court location in Surprise, is contained on the instruction sheets that go with the court papers for the court process you are filing on. **NOTE: IT IS ALWAYS A GOOD IDEA TO COME IN PERSON TO APPLY FOR A DEFERRAL OR WAIVER, UNLESS YOU HAVE A MEDICAL OR OTHER GOOD REASON WHY YOU CANNOT APPEAR IN PERSON.**

- C. However, you can mail the application to the Clerk of the Court, 201 West Jefferson, Phoenix, Arizona 85003. The Special Commissioner will review your application, determine if you qualify for a deferral or waiver, and notify you as to whether you qualify for a deferral or waiver.
 - C. Give the original Application to the Clerk, and sign the Application in front of the Clerk. The Special Commissioner will usually decide whether to grant the Application or not, depending on the information in the Application. Sometimes the paperwork is sent to a judge to review and decide. Ask the Special Commissioner if you are unsure.
 - D. If the Application is granted, file the court papers for the court process you are involved with. If the Application is denied, pay the fee or costs. If you do not agree with the Court's decision, you can request a hearing in front of a Judge.
 - E. If the Deferral or Waiver is for Personal Service by the sheriff, take the papers that need to be served, along with a copy of the Order of Deferral or Waiver, to the sheriff. Instructions on how to do this are contained on the help sheet that is in the packet on service of process.
 - F. If the Deferral or Waiver is for Publication, follow the instructions that are contained on the help sheet that is in the packet on service of process.
 - G. **REMINDER.** If you still cannot pay the fees and costs at the end of the case, and believe you should receive a waiver or further deferral (payment schedule), you must file a ***"Supplemental Application"*** at the end of the case, or a Consent Judgment will be entered against you. You will receive instructions on how to do this at the end of the case.
6. **OTHER HELP.** If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "Attorneys." Also, the Self-Service Center has a list of lawyers who will help you help yourself. The list shows where the lawyers are located, how much they charge to look over the court papers or answer your questions, and what their experience is. Visit the Self-Service Center at the court or on the Internet at <http://www.superiorcourt.maricopa.gov/ssc/sschome.html> to get the names of some of the lawyers on this list.

**ALL FORMS REFERRED TO IN THESE INSTRUCTIONS
ARE AVAILABLE AT THE SELF-SERVICE CENTER.**

Name of Person Filing Document: _____
Your Address: _____
Your City, State, and Zip Code: _____
Your Telephone Number: _____
Attorney Bar Number (if applicable): _____
Representing ☐ Self (Without Attorney) OR ☐ Attorney for ☐ Petitioner OR ☐ Respondent

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

Name of Petitioner/Plaintiff

Case Number: _____

**APPLICATION FOR DEFERRAL OR WAIVER
OF COURT FEES FOR ORDERS OF
PROTECTION and INJUNCTIONS AGAINST
HARASSMENT AND CONSENT TO ENTRY
OF JUDGMENT**

Name of Respondent/Defendant

IMPORTANT

This Application for Deferral of Court Fees and/or Costs includes a Consent to Entry of Judgment. By signing this Consent, you agree a judgment may be entered against you for all fees that are deferred but remain unpaid thirty (30) calendar days after the Notice of Court Fees and/or Costs Due is mailed to you. If payment has been postponed and not made in full when due, you will receive a Notice of Court Fees and/or Costs Due indicating what steps you must take to avoid a judgment against you if you are still unable to pay. Additional details about this process are described in the Consent to Entry of Judgment section of this Application.

STATE OF ARIZONA)
COUNTY OF _____) **ss**

STATEMENTS MADE TO THE COURT UNDER OATH. I swear or affirm that the information in this application is true and correct. I make this statement under the penalty of prosecution for perjury if it is determined that I did not tell the truth.

1. **I am requesting a deferral or waiver of the following fees in my case:**

☐ Fee for service of process by sheriff, marshal, constable or local law enforcement.

2. **The basis for the request is:**

☐ 1. **WAIVER:**
My income and liquid assets are insufficient or barely sufficient to meet the daily essentials of life and unlikely to change in the foreseeable future.

OR

☐ 2. **DEFERRAL:**
a. I receive governmental assistance from the state/federal program(s) checked below:
☐ Temporary Assistance for Needy Families (TANF) ☐ Food Stamps
☐ Supplemental Security Income (SSI) ☐ General Assistance (GA)

Please be prepared to submit proof that you receive governmental assistance. If you are submitting this application by mail or a third party, please attach a photocopy of that proof.

OR

- ☐ **b. My income is insufficient or is barely sufficient to meet the daily essentials of life, and includes no allotment that could be budgeted for the fees and costs that are required to gain access to the court.**

OR

- ☐ **c. I do not have the money to pay the court fees and costs now. I can pay the court fees and costs at a later date. Explain: _____**

It would be useless or dangerous for me to try to obtain voluntary acceptance of service of process.

CONSENT TO ENTRY OF JUDGMENT: By signing this Application, I agree a judgment may be entered against me for all fees and costs that are deferred but remain unpaid thirty (30) calendar days after entry of final judgment. Judgment may be entered against me unless any one of the following applies:

- A.** Fees and costs are taxed to another party;
- B.** I have an established schedule of payments in effect and I am current with those payments;
- C.** I file a supplemental application for waiver or further deferral of fees and costs and a decision by the court is pending;
- D.** In response to a supplemental application, the court orders that the fees and costs be waived or further deferred; or
- E.** Within twenty days of the date the court denies the supplemental application, I either:
 - 1.** Pay the fees and costs; or,
 - 2.** Request a hearing on the court's order denying further deferral or waiver. If I request a hearing, the court cannot enter the consent judgment unless a hearing is held, further deferral or waiver is denied and payment has not been made within the time prescribed by the court.

ACKNOWLEDGMENT AND SIGNATURE UNDER OATH

Today's Date: _____

Signature: _____

Print Your Name: _____

SUBSCRIBED AND SWORN or affirmed and acknowledged before me on (date) _____
by _____.

My Commission Expires: _____

Judicial Officer, Clerk or Notary Public

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

Name of Petitioner/Plaintiff

Case Number: _____

**ORDER REGARDING DEFERRAL
OF SERVICE OF PROCESS FEES
FOR ORDERS OF PROTECTION
OR INJUNCTIONS AGAINST
HARASSMENT**

Name of Respondent/Defendant

UPON VERBAL AVOWAL OR WRITTEN APPLICATION AND A FINDING OF GOOD CAUSE,

IT IS ORDERED: (Check all boxes that apply)

☐

DEFERRAL IS GRANTED for the service of process fee.

☐

DEFERRAL IS DENIED for the service of process fee.

The applicant does not meet the financial criteria for deferral.

DATED: _____

☐

Judicial Officer

☐

Special Commissioner

Payment Due Date

The applicant shall pay the service of process fee of \$_____ on or before (date)_____

If payment is not made in full when due, you will receive a notice reminding you that you may submit a supplemental application for further deferral or waiver if you believe you still cannot afford to pay your court fees and/or costs. The court will decide at that time whether or not you must pay.

NOTE: IF APPLICATION IS BY VERBAL AVOWAL, THE APPLICANT MUST SIGN THE CONSENT ON THE NEXT PAGE.

If payment of the service of process fee has been postponed and payment is not made in full when due, you will receive a Notice of Court Fees and Costs Due reminding you that you may submit a supplemental application for further deferral or waiver if you believe you still cannot afford to pay your court fees. The court will decide at that time whether or not you must pay.

CONSENT TO ENTRY OF JUDGMENT: By signing this Application, I agree a judgment may be entered against me for all fees and costs that are deferred but remain unpaid thirty (30) calendar days after entry of final judgment. Judgment may be entered against me unless any one of the following applies:

- A. Fees and costs are taxed to another party;
- B. I have an established schedule of payments in effect and I am current with those payments;
- C. I file a supplemental application for waiver or further deferral of fees and costs and a decision by the court is pending;
- D. In response to a supplemental application, the court orders that the fees and costs be waived or further deferred; or
- E. Within twenty days of the date the court denies the supplemental application, I either:
 - 1. Pay the fees and costs; or,
 - 2. Request a hearing on the court's order denying further deferral or waiver. If I request a hearing, the court cannot enter the consent judgment unless a hearing is held, further deferral or waiver is denied and payment has not been made within the time prescribed by the court.

ACKNOWLEDGMENT AND SIGNATURE UNDER OATH

Today's Date: _____ Signature: _____

Print Your Name: _____

SUBSCRIBED AND SWORN or affirmed and acknowledged before me on (date) _____

by _____.

My Commission Expires: _____

Judicial Officer, Clerk or Notary Public

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

Name of Petitioner/Plaintiff

Case Number: _____

ORDER REGARDING WAIVER OF
SERVICE OF PROCESS FEES
FOR ORDERS OF PROTECTION
OR INJUNCTIONS AGAINST
HARASSMENT

Name of Respondent/Defendant

UPON VERBAL AVOWAL OR WRITTEN APPLICATION AND A FINDING OF GOOD CAUSE,

IT IS ORDERED: (Check all boxes that apply)

☐

WAIVER OF PAYMENT IS GRANTED for the service of process fee.

☐

WAIVER IS DENIED for the service of process fee.

The applicant does not meet the financial criteria for waiver.

DATED: _____

☐

Judicial Officer

☐

Special Commissioner